IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Civil Revision No. 97 of 2001
(Old No. 291 of 1986)

The Oriental Insurance Company Limited
Registered Office of Jeewan Udyog
Asaf Ali Road, New Delhi ...Appellant

Vs

1. M/s Khanna Transport Company (Regd)
   Rishikesh (U.P.)
2. M/s Prakash Road Lines (Pvt.) Ltd.
   8/9 Kulanpalayam
   New Extension, Banglore – 2
3. M/s Indian Drugs & Pharmaceuticals Ltd.
   Unit Antibiotics Plant
   Virbhadia (Rishikesh) ...Respondents

Sri Rajesh Joshi holding brief of Sri T.A. Khan, learned counsel for the appellant
Sri Yogesh k. Pachilia learned counsel for the respondent No. 2
Sri V.K. Bisht, learned Senior Advocate assisted by Ms. Sanjeeta Miyan, learned counsel for the respondent No. 3

Hon'ble B.C. Kandpal, J.

This civil revision has been filed by the appellant – Oriental Insutance Company Ltd against eh judgments and orders dated 23.12.1985 and 18.03.1986 passed by the Civil Judge IInd, Dehradun and Additional Civil Judge IVth respectively in O.S. No. 2 of 1977, Oriental Insurance Company Ltd. Vs K/s Khanna Transport Company & others.

2. Heard Sri Rajesh Joshi holding brief of Sri T.A. Khan, learned counsel for the appellant, Sri Yogesh K. Pacholia, learned counsel for the respondent No. 2, Sri V.K. Bisht, learned Senior Advocate assisted by Ms. Sangeeta Miyan, learned counsel for the respondent No. 1 and perused the record.

3. The record reveals that an application was filed by the plaintiff/revisionist along with the affidavit for issuing the

commission. The court below vide order dated 23.12.1985 allowed that application with certain direction issued to the Commissioner that the Commissioner will examined the witnesses by putting him certain question to him.

4. An application for seeking correction in the impugned order dated 23.12.1985 was subsequently moved by the plaintiff/revisionist but that application was also rejected vide order dated 19.03.1986.

5. Feeling aggrieved by the aforesaid both the orders, the revision has been preferred before Allahabad High Court which has been subsequently transferred to this State after creation of new State.

6. I do not find any illegality, incorrectness or impropriety in the impugned orders passed by the courts below. The courts below while passing both the impugned orders has exercised its jurisdiction. It is a settled law that when the discretion by the court has been exercised judiciously, the same cannot be interfered with. I do not find arbitrariness in the impugned orders passed by the courts below.

7. Therefore, the revision lacks merit and is liable to be dismissed.

9. Accordingly, the revision is dismissed.

(B.C. Kandpal, J.)

07.09.2006
ASWAL